

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TONY MERKSICK,

Defendant.

8:19-CR-109

MEMORANDUM AND ORDER

This matter is before the Court on the Magistrate Judge's Findings, Recommendation, and Order ([filing 50](#)) recommending that the Court deny the defendant's motion to suppress ([filing 31](#)). The defendant has not objected to the Magistrate Judge's recommendation.

Title 28 U.S.C. § 636(b)(1) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. *Peretz v. United States*, 501 U.S. 923 (1991). Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. [NECrimR 59.2\(e\)](#). The defendant was expressly advised that "[f]ailure to timely object may constitute a waiver of any such objection." Filing 104 at 8. And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); *see also United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006).


Accordingly, the Court will adopt the Magistrate Judge's recommendation that the defendant's motion to suppress be denied, and any objection is deemed waived.

IT IS ORDERED:

1. The Magistrate Judge's findings and recommendation ([filing 50](#)) are adopted.
2. The defendant's motion to suppress ([filing 31](#)) is denied.

Dated this 22nd day of November, 2019.

BY THE COURT:



John M. Gerrard
Chief United States District Judge